REMARKS

Claims 1-11, 13, 16-18 and 20-24 are pending in the present application. Claims 1, 2, 4, 7, 9, 13, 16 and 18 are amended, claims 10, 11 and 20 are canceled, and claims 21-22 are added herein. Support for the claim amendments and added claims is found throughout the specification and claims as originally filed, and no new matter is presented by the amendment (e.g. see the published application at [0022], [0031], [0062-0063]).

Any cancellation of the claims should in no way be construed as acquiescence to any of the Examiner's rejections and was done solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in this or a separate application(s). Favorable reconsideration in light of the remarks which follow is respectfully requested.

1. 35 U.S.C. §112 Rejections

Claims 1-7, 9-11, 13, 16, 18 and 20-24 are rejected under 35 U.S.C. §112, second paragraph. The Office asserts that the language "with a higher percentage" in claims 1 and 9 is a relative term that is not understood. The Office further asserts that "the previously selected hernia compression area" in claim 9 has insufficient antecedent basis. The Office further asserts that it is not understood what area is referred to in the "pre-selected compression area".

Without agreeing with or acquiescing to the rejection, Applicants have amended the language referred to in the claims. Reconsideration and withdrawal of the rejection is respectfully requested in view thereof.

2. 35 U.S.C. §103 Rejections

Claims 1-4, 6-7, 9-11, 13, 15-18 and 20-24 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,572,888 to Browder, Jr. ("Browder"). Applicants respectfully traverse.

Applicants provide a clothing article for a person with a hernia or who may develop a hernia. Applicants' clothing article is designed to apply suitable compression to the area corresponding anatomically to a hernia location. In particular, the clothing article is provided with a hernia compression area that is configured to apply a compression of 15-50 mmHg. This is accomplished by forming the hernia compression area with 15-60% elastic yarns having a thickness of 100-300 dtex in combination with a compact knitted structure and a firm tight stitch pattern. As set forth by Applicant, the compression provided by the clothing article is such that a flat curve pattern between force and elongation is provided (see FIG. 5; [0059], [0062-0063]) such that sufficient but not too high compression is exerted on the hernia location despite variations in a user's size. As a result, even if a user undergoes weight loss or increase, there isn't an appreciable effect on the force of the article and, thus, the clothing article ensures that the hernia compression area will not exert an appreciable increase or decrease in compression on the hernia location. This is important because the compression exerted on the hernia location must be maintained at certain levels to keep the hernia in place and to, further, provide a preventative effect for those who may develop a hernia. This flat curve pattern is achieved by a combination of factors provided by the present clothing article including, in particular, Applicants' claimed use of elastic yarns, in combination with the thickness and knitting pattern of the yarns, and further by complete or partial fixation of the clothing article and pre-stressing of the clothing article. As set forth by Applicant, by fixation of the clothing article, it is possible to change the pattern of the force-elongation curve (see [0063]) and by pre-stressing the clothing article, it is possible to reach a first point 19 (the point at which the force/compression is at the relatively flat value) more rapidly after which the force/compression remains largely

unchanged as the elongation increases (see [0063], FIG. 5). This is an important feature of a clothing article for treating and preventing hernia, which requires a certain level of compression in the hernia location.

In the Office Action on page 5, it is asserted that the recitation "for producing compression between 15 to 50 mmHg" is a functional limitation. Applicants respectfully disagree. The recitation regarding compression, which currently reads "the hernia compression area having a compression of 15-50 mmHg", does not solely define the clothing article by what it does, but rather, defines a structural features of the clothing article. In particular, as noted above, the compression of the compression area is provided based on the type of yarns forming this area and the manner in which they are knit (e.g. by forming the compression area with 15-60% elastic yarns having a thickness of 100-300 dtex in combination with a compact knitted structure and a firm tight stitch pattern).

Applicants further disagree with the assertion in the Office Action on page 5 that Browder "meets all the structural limitations claimed by applicant and is therefore… would have a material that displays a force/elongation curve including a largely flat curve pattern". As set forth by Applicant, and as recited in amended claim 1, the clothing article is fixed and pre-stressed such that compression of the hernia compression area is substantially constant over a large range of elongation. Nowhere does Bowder teach or suggest fixing and pre-stressing of an article so as to impart on the article a compression that is substantially constant over a large range of elongation. As noted by Applicants, this substantially constant compression is important in Applicants' clothing articles which are designed for holding in a hernia or preventing a hernia because such articles require a certain level of compression in the hernia location. According to Applicants' design, even if a greater elongation was imparted on the article (i.e. wherein a greater elongation would be imparted by larger user as compared to a smaller user, or wherein a greater elongation would be imparted if a user

gained weight) the compression applied to the hernia location by the hernia compression area would remain substantially constant and, thus, within the required range.

It is submitted that Bowder fails to teach or suggest fixing and pre-stressing according to Applicants' claims and, further, based on Bowder's disclosure, such fixing and pre-stressing would, in fact, be undesirable. Bowder describes an undergarment such as a corset, girdle and the like for providing support or control to the lower torso area. Such articles are designed for minimizing and slimming various body parts and, as such, if greater elongation is exerted on the garment (e.g. corset or girdle), then the garment would require the exertion of a greater level of support and control in order to properly function. Thus, contrary to Applicants' clothing article which (a) requires a compression area for a hernia that imparts a generally uniform compression on the hernia area, such that even if a greater elongation is imparted (such as by larger user as compared to a smaller user), or wherein a greater elongation is imparted (such as when a user gains weight) the force/compression imparted in the compression area remains generally constant, Bowder's garment would require the opposite such that (b) if a greater elongation is imparted (by a larger user as compared to a smaller user or by a user who has gained weight) then the support/compression (force/compression) would need to increase to in order to function properly by minimizing and slimming the body part(s).

It is respectfully submitted that Bowder does not teach or suggest a clothing article in accordance with Applicants' amended claims, nor would there be any teaching or suggestion to modify Bowder's clothing article in accordance with Applicants' teaching. Further, the features previously pointed to by the Office are not purely functional, but rather describe the compression area in terms of its' structural properties. Still further, Bowder's garment would <u>not</u> inherently be provided with Applicants' relationship between elongation and force/compression because Bowder's garment is

not fixed or pre-stressed so as to impart this property – further Bowder's garment would not function properly if the garment was modified to have this relationship.

In view thereof, it is respectfully submitted that claim 1, and all claims dependent therefrom, are patentable over Bowder. Reconsideration and withdrawal of the rejections is respectfully requested in view thereof.

CONCLUSION

Early and favorable consideration of the application is earnestly solicited. Applicants conditionally petition for any extension of time needed for consideration of this paper. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 88615(304111).

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Respectfully submitted,
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